

REMARKS

Claims 1-4 and 7-12 are in the application.

Claim 1 has been amended to include features from original claims 5 and 6 and from the specification and drawings. The fact that the slide 19 is capable only of translatory motion is apparent from the drawings. Specifically, as defined in Webster's Third New International Dictionary, a translatory motion is a motion in which all points of a moving body move uniformly in the same line or direction. This definition applies to the movements of the slider illustrated in the drawings of the present application. The fact that the slider supports the sidepieces in the spread-apart thereof over the entire horizontal width is clear from the drawing and also from original claim 10, because the flush arrangement of the slider with the outer surface of the implant requires such a support over the entire width of the side pieces of the implant.

Reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. 102(b) as being anticipated by Foley et al., are respectfully requested.

As defined in amended claim 1, the present invention relates to an implant for placement between vertebrae comprising two sidepieces joined together at one end and free at another end, wherein each of the sidepieces is placeable against one of the vertebrae. A device is provided for vertical distraction of the sidepieces, wherein outside surfaces of the sidepieces that face the vertebrae and at least stages of inner surfaces of the sidepieces are configured to converge toward the free ends of the sidepieces in an initial position for the distraction. In addition, a spreading element is arranged between the sidepieces for spreading apart the sidepieces.

An implant of this type is disclosed in U.S. Patent 6,454,807 B1 and French references 2 803 741 A and 2 771 282 A.

The spreading elements of these known implants have threads. Consequently, the movement of the spreading elements is effected by a turning motion.

The reference to Foley also does not disclose a spreading element constructed as a slider. Moreover, the spreading element described by Foley is not a component of the implant which remains in the body.

In contrast to this prior art, the present invention provides a novel implant of the above-described type which can be manipulated more easily.

In accordance with the present invention, the spreading element is a slider which carries out exclusively translatory movements, wherein the slider supports the sidepieces in the spread-apart state thereof over their entire horizontal width.

Accordingly, the present invention provides the advantage that the slider used for spreading apart the sidepieces only has to carry out translatory movements. The particular construction according to the present invention in which the ends of the sidepieces are supported in the spread-apart state of the sidepieces by the slider over the entire width of the sidepieces, results in an implant body which is stable in all directions. In particular, in the area the support is effected, the surface pressure is kept low which means that the material is only subjected to small loads so that it is possible to manufacture the implant of plastics material and possibly by extrusion.

This combination of features according to the present invention clearly is not disclosed or suggested by the prior art of record.

Therefore, in view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Any additional fees or charges required at this time in connection with the application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

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Dated: January 5, 2005

  
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Date: January 5, 2005